

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KENNETH G. THORP,

Plaintiff,

vs.

**Case No.: 2:15-cv-1121
JUDGE SMITH
Magistrate Judge King**

**OHIO DEPARTMENT OF REHABILITATION
AND CORRECTION, *et al.*,**

Defendants.

ORDER

On April 17, 2015, the United States Magistrate Judge issued a *Report and Recommendation* recommending that this case proceed against Defendants Michelle Miller, the Warden of the Belmont Correctional Institution, and Major Clark, but that it be dismissed as to the other named Defendants (ODRC, Mohr, Bumgardner, and Riehle) for lack of subject matter jurisdiction and/or failure to state a claim upon which relief can be granted. (*See Report and Recommendation*, Doc. 7). The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Plaintiff Thorp's Objections to the *Report and Recommendation*. (*See* Doc. 10). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff stipulates to the dismissal of Defendants Kelly Riehle, Gary Mohr, and ODRC, a state entity. However, Plaintiff objects to the dismissal of Defendant Bumgardner. First, Plaintiff asserts that the Magistrate Judge incorrectly referred to Defendant Bumgardner as "Institutional Inspector," when in fact his job and function is "Institutional Investigator."

Plaintiff argues that this “makes a vast difference with respect to not only liability, immunity issue, but job authority/position and his responsibilities.” (Pl.’s Obj. at 1). The Court has carefully considered Plaintiff’s argument and finds that regardless of the title used by the Magistrate Judge in her *Report and Recommendation*, she correctly held that merely because a defendant is “charged with handling inmates’ grievances is not sufficient to allege that they had either the authority or the ability to change or correct the prison conditions about which plaintiff complains.” (*Report and Recommendation* at 4-5). Therefore, the Magistrate has already considered the arguments raised by Plaintiff in his objections. For the reasons stated in the *Report and Recommendation*, this Court finds that Plaintiff’s objections are without merit and are hereby **OVERRULED**.

The *Report and Recommendation*, Document 7, is **ADOPTED** and **AFFIRMED**.

Plaintiff’s Complaint is hereby dismissed as to Defendants ODRC, Mohr, Bumgardner, and Riehle.

The Clerk shall remove Documents 7 and 10 from the Court’s pending motions list.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT